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ABSTRACT

This four-page monograph discusses the legal background of sexual harassment, provides explanations for sexual harassment, and lists the effects of sexual harassment. It then moves to actions that individuals, educators, and administrators can take to combat sexual harassment. Also included are six annotated resources for educators to use in preparing students for sexual harassment situations and nine references. (KC)

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SEXUAL HARASSMENT: UNDERSTAND IT, TALK ABOUT IT, POST A POLICY AGAINST IT

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- In February 1992, the U.S. Supreme Court ruled that victims of sexual harassment and other forms of sex discrimination in schools may sue for monetary damages under federal civil-rights law. Individuals now have the right to sue schools and universities to enforce Title IX of the Education Amendments of 1972, which forbids sex discrimination in educational institutions.
- In November 1991, the Federal Civil Rights Act of 1991 became law and gave victims of sexual harassment and sex discrimination the right to sue for monetary damages. This act amends Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination in all aspects of employment practices.
- Ohio currently has companion bills in the House and Senate (House Bill 647 and Senate Bill 252) that more clearly define sexual harassment as illegal, extend the statute of limitations for filing sexual harassment cases from 180 days to 2 years, require public and private employers to adopt and provide a written sexual harassment policy to their employees, and permit the Ohio Civil Rights Commission to award monetary damages to victims and to cut state and local monies to offending agencies.

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INTRODUCTION

The mere mention of the term *sexual harassment* makes people uncomfortable. This may happen because people don't understand "sexual harassment." Some may fear it and others may not believe it is a real issue in their lives. Sexual harassment is a real issue, not to be feared, but to be faced, addressed, and dealt with. This monograph discusses the legal background of sexual harassment, explanations for sexual harassment, and the effects of sexual harassment, then moves to actions that individuals, educators, and administrators can take to combat sexual harassment. Also included are resources for educators to use in preparing students for sexual harassment situations.

LEGAL BACKGROUND OF SEXUAL HARASSMENT

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of race, color, religion, national origin, or sex. This federal legislation thus prohibits sex discrimination in all aspects of employment, including hiring, promotion, tenure, salaries, benefits, training, demotion, layoff, firing, and transfer. The term *sexual harassment* did not exist when this law was enacted.

Title IX of the Education Amendments of 1972 established the unlawfulness of sex discrimination against students and employees in all educational institutions receiving federal assistance. Title IX forbids sex discrimination in all aspects of education, including recruitment, admissions, curricular and extracurricular opportunities, financial aid, rules of conduct, counseling, testing, services, and benefits. In addition, Title IX requires all educational institutions to establish a grievance procedure to address alleged discrimination on the basis of sex.

In 1978, Farley coined the term *sexual harassment* and unofficially identified this activity as a form of sex discrimination. She described sexual harassment as an act that involves unsolicited, nonreciprocal, aggressive male behavior directed toward a female (Farley, 1978). Before this date, no name existed for this type of behavior.

In November 1980, the Federal Equal Employment Opportunity Commission (EEOC) interpreted Title VII to include sexual harassment as a form of sex discrimination in employment, and defined sexual harassment. The EEOC definition reads: "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such

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conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating or offensive working environment" (Congressional Federal Register, 1980, p. 74,676).

By 1981, the United States Department of Education's Office for Civil Rights published a written definition of sexual harassment: "Sexual harassment consists of verbal or physical conduct of a sexual nature, imposed on the basis of sex, by an employee or agent of a recipient that denies, limits, provides different or conditions the provision of aid, benefits, services, or treatment protected under Title IX" (Office for Civil Rights, 1981). To prove a violation of Title VII of the Federal Civil Rights Act of 1964, it has generally been necessary to demonstrate that submission to sexual harassment was a term or condition of employment, that refusal to submit substantially adversely affected the victim's employment, and that employees of the other sex were not affected in the same way.

THE EXISTENCE OF SEXUAL HARASSMENT

Sexual harassment is any sexual attention that is unwanted or is not freely or mutually agreeable to both parties. In subtle cases, the major difference between sexual harassment and flirtation is that sexual harassment is unwanted and unwelcome. Once a person says the actions or statements are unwelcome, the behavior should cease. If it doesn't, a case of sexual harassment exists. Sexual harassment includes, but is not limited to, leering, pinching, patting, verbal comments, subtle pressure for sexual activity, repeated propositions for dates, sexually suggestive objects or pictures, sexual jokes, unwanted body contact, attempted rape, and rape.

Sexual harassment is an unfortunate way that people exercise power. Harassers gain power by virtue of the fact that they are controlling their environment by utilizing intimidating behaviors to force the cooperation of victims (Hemming, 1985). Victims usually feel powerless to stop the behavior or to control their environment. Although some harassers are in a position of authority over their victim, peers can also sexually harass one another.

Harassers almost always act alone and frequently harass several different people at the same time. In addition, the harassing behavior is often directed toward the victim consistently over a long period of time. In 1981, the United States Merit System Protection Board (USMSPB) conducted a landmark study of 23,000 federally employed men and women over a 2-year period. Forty-two percent of the women and 15 percent of the men reported experiencing sexual harassment in the workplace. Research by Somers (1983) cited studies that reported the incidence of sexual harassment among female employees to be as high as 92 percent. These and other studies show that sexual harassment is a common problem, with reliable estimates of incidence ranging from 20 percent of female students to 42 percent of female employees.

Most women do not believe that they will be able to stop sexual harassment, and therefore they will go to great lengths to conceal it from friends and family. They fear that they will be ridiculed or made to feel guilty of being responsible in some way for encouraging the harasser. Women are either embarrassed or humiliated that they are the target of sexually coercive behavior. But more than that, they are intimidated as subordinates in the hierarchical structure, fearing that a direct confrontation would result in threats to their lives.

The sexual harasser may be a teacher, a supervisor, an employer, a client, a customer, or a peer. The harasser is almost always a male, and the victim of sexual harassment is almost always a female (Moseley, 1991). This is not to say that all males are harassers. Most males do not sexually harass others. Some males do, and some males are victims of sexual harassment. Same-sex harassment also occurs, yet infrequently.

EXPLANATIONS FOR SEXUAL HARASSMENT

Sexual harassment is a form of violence against women, and men use violence against women as a means to maintain power over them (Sampselle, 1992). Sexual harassment occurs in our society due to traditional cultural beliefs. Societal characteristics that support violence against women include viewing women strictly as sexual beings, viewing women as men's property, and exploiting women through language and objectification. These societal characteristics are thought to foster the myth that women want to be controlled and want to be sexually overpowered.

Until recent history, women have legally been the property of men rather than having control over their own bodies. This circumstance persists in some parts of the world and continues to influence perceptions of women in North America (Sampselle, 1992). This focus on women as objects—turning a human being into a thing to be possessed—is believed to sanction violence against women (Kilbourne, 1987).

Evidence that women are viewed primarily as sex objects can be found in a study of language that identified 22 sexual terms describing men and 220 sexual terms applied to women. Most of the terms that labeled women as sexual beings tended to denigrate or trivialize them. Women were often compared to plants *(clinging vine, shrinking violet)*, animals *(chick, hog, cow, pig)*, and foods *(honey, cookie, dish, sweetie)*.

Women are exploited by advertisers who portray females as wide-eyed and vulnerable and who have females openly use body language to invite sexual attention and sell products. Scantily clothed females have been used to promote everything from automobiles to soda pop. These images demean women's existence and encourage unrealistic expectations about women's values and desires. Another example of this occurs in romance novels, which frequently describe women being overpowered by men and, as a result, transported to greater sexual fulfillment.

Women don't want to be overpowered any more than men do. When a woman says no, she should be believed and respected. Professional women, like professional men, want to be taken seriously, and want their work and their ideas admired, not just their appearance. Women want to be viewed more realistically and more respectfully as people, not as sex objects or as possessions. This would not only improve communication between

men and women, but would also improve the self-esteem of most women who believe that they don't rate well as sex objects and who haven't learned to respect themselves for their accomplishments.

EFFECTS OF SEXUAL HARASSMENT

Thus, targets of sexual harassment are not the only victims. Social constraints are imposed on all women. This is reflected in the guilt that is the typical first reaction to being sexually harassed. Women are socialized to believe that they have incited the harassment because *they* are the sexual being. "What was I wearing?" or "What did I do?" are usually the first questions asked by a victim of sexual harassment.

Other feelings of victims are fear, frustration, embarrassment, hopelessness, insecurity, and shame. Sexual harassment can severely affect the victim's emotional and physical well-being. Victims often suffer physical consequences, such as depression, stress, nausea, headaches, ulcers, and substance abuse. Social and interpersonal relations also become stressed due to hostility or a lack of trust as a result of the harassment.

Sexual harassment not only creates stress and anxiety but it becomes coercive when it is supported and reinforced by power, economic or otherwise. There is always the message, either direct or implied, that noncompliance with, or reporting of, the harassment will lead to penalties. The penalties can include escalation of the sexual demands or other forms of harassment, such as

- Poor work assignments
- Poor grades
- Sabotaging of one's work
- Ridicule
- Unsatisfactory evaluations
- The threat of demotions or transfers
- The denial of benefits or raises
- Undesirable assignments
- Negative academic standing
- Dismissal from a job
- A poor reference (Moseley, 1991)

People who view situations involving sexual harassment are also victims. They are often afraid to report an incident, fearing they may be targeted next. Their self-esteem and their level of trust in others can also decrease.

ACTIONS AGAINST SEXUAL HARASSMENT

Direct action should be taken to stop sexual harassment when it is occurring. The situation is likely to worsen if the victim does not take action. Overlooking obvious sexually harassing behaviors may indicate the acceptance of this behavior. The following suggestions on how to deal with sexual harassment are general recommendations. The victim should consult with someone in administration at the school or on the job to review the policy statement against sexual harassment and to explore further options to stop the harassment.

- Do not laugh at the harassing behavior.
- Give the harasser a firm no at the first sign of sexual harassment. Tell the harasser, in person or by letter, that this behavior is unacceptable.
- Avoid being alone with the harasser.
- Make it known in front of other people that this type of behavior is offensive and unacceptable.
- Document as precisely as possible what happened, when it took place, and who witnessed it. This is extremely important.
- Talk with others to see if they have been harassed. Complaints from a group carry more weight than those from an individual.
- Ask witnesses if they will verify your experience.
- Talk to a friend or relative for emotional support.

Legal action against sexual harassment should be used as a last resort. It is advisable to first talk with supervisors, personnel development specialists, affirmative action officers, or administrators within the organization. If satisfactory action is not taken, individuals can contact an attorney to represent them. It is wise to deal with someone who specializes in sexual harassment cases or who has at least dealt with such cases in the past. An individual can also directly contact the Equal Employment Opportunity Commission or the Office for Civil Rights. These organizations' local phone number appears in the telephone book.

ADMINISTRATORS' ACTIONS TO COMBAT SEXUAL HARASSMENT

School administrators should assure that a policy against sexual harassment of employees and students is in place in their school. A sexual harassment policy should

- Define *sexual harassment*
- State the laws against sexual harassment
- Name a contact person who deals with concerns about sexual harassment

Once a policy is in place, the next step is to develop guidelines to implement it. These guidelines should detail the rights and responsibilities of employees and students, and should include a grievance procedure and the consequences for violating the policy.

Administrators should take a strong stand against treating anyone with a lack of respect. Some other actions for concerned and responsible administrators are to

- Speak out publicly and distribute the written policy widely
- Provide training on sexual harassment for all employees in the school district
- Deal quickly, firmly, and fairly with all sexual harassment complaints
- Designate responsibility for investigating and resolving complaints to people who are widely respected and who have strong interpersonal skills

RESOURCES FOR EDUCATORS

Teachers need to prepare their students for the possibility of facing sexual harassment in school and on the job. Some students may already have experienced sexual harassment. Discussing sexual harassment issues will let students know that you are sensitive to the issue and prepared to fight against it. Discuss the school's policy against sexual harassment and be sure that students know who to talk with if the need arises.

The following resources are available on loan to Ohio vocational educators who contact the Sex Equity Resource Library at the Center on Education and Training for Employment, 1900 Kenny Road, Columbus, Ohio, 43210, (614) 292-4353 or (800) 848-4815 (Steve Chambers, librarian).

Dear Lisa: A Letter to My Sister. New York: New Day Films, 1990. Using interviews with 13 women and girls, this 45-minute 1/2" videotape takes a comprehensive and multicultural look at women's hopes and dreams, and the realities of being female in the 1990's. Topics include childhood play, sports, careers, motherhood, the "second shift," body image, sexual assault, and self-esteem. An 18-minute companion videotape entitled *Man Oh Man* explores the societal pressures of being an American man. It covers communication, relationships, working, chivalry, and courage.

Managing Sexual Harassment. Columbus, OH: The Ohio State University, Center for Sex Equity, 1988. This 40-page course outlines five 40-minute sessions, each including appropriate exercises, student worksheets, and transparency masters. Additional materials for the instructor wishing to expand or otherwise adjust the program are in the Appendices. The course is designed to help students define *sexual harassment*, recognize it as a form of discrimination, and learn to deal with it effectively.

Mitchel, M. S., and A. Scannella. *Sending the Right Signals: A Training Program About Dealing With Sexual Harassment*. Jersey City, NJ: Jersey City State College, Project TIDE, 1989. This training package consists of a 30-page trainer's handbook with transparencies, a 50-page student workbook, and a 1/2" videotape. The goals are to educate students about sexual harassment, to enable students to effectively deal with sexual harassment when it occurs, and to help schools establish policies that promote an environment free of sexual harassment. Seven 45-minute sessions are outlined.

Morris, B., et al. *Tune In to Your Rights . . . A Guide for Teenagers About Turning Off Sexual Harassment*. Ann Arbor, MI: University of Michigan, Center for Sex Equity, 1985. This 20-page booklet defines sexual harassment, discusses options for action, and illustrates teenagers' perspectives on the issue. The booklet includes a student's journal about her experiences and offers advice for victims and friends witnessing the events. It is a must for every school library.

Sexual Harassment: Facilitators' Curriculum Manual. Little Canada, MN: Minnesota Curriculum Services Center, 1990. This 197-page manual outlines a course 16 to 18 hours long that can be divided into sessions lasting 1 to 4 hours each. It comes with a companion piece entitled *Sexual Harassment: Student Manual*. The program's goals are to reduce the incidence of sexual harassment, to evaluate the awareness of sexual harassment as a pervasive issue requiring attention and response, and to identify skills and procedures for responding to sexual harassment in a legal and systematic manner. The curriculum states program objectives for each unit, defines the types and causes of sexual harassment, and discusses responses to sexual harassment. Also provided are handouts, transparencies, an extensive bibliography, and a list of related organizations.

Would You Let Someone Do This to Your Sister? Detroit, MI: United Auto Workers, 1984. This 30-minute 1/2" videotape shows the devastating effect that sexual harassment has on the lives of working women. The women in the video are not actresses, but victims of sexual harassment by either managers or coworkers. The United Auto Workers organization uses this videotape to strongly state its policy against sexual harassment. It was developed primarily for adult audiences.

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